

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

TWIN SECURITIES, INC., *et al.*,

Plaintiffs,

v.

AMERICAN REALTY CAPITAL
PROPERTIES, INC., *et al.*,

Defendants.

Civil Action No.: 1:15-cv-01291-AKH

HG VORA SPECIAL OPPORTUNITIES
MASTER FUND, LTD.,

Plaintiff,

v.

AMERICAN REALTY CAPITAL
PROPERTIES, INC., *et al.*,

Defendants.

Civil Action No.: 1:15-cv-04107-AKH

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**DIRECT ACTION PLAINTIFFS' RULE 56.1 STATEMENT OF UNDISPUTED
MATERIAL FACTS IN SUPPORT OF THEIR MOTION FOR
PARTIAL SUMMARY JUDGMENT AGAINST DEFENDANT BRIAN S. BLOCK**

BLACKROCK ACS US EQUITY TRACKER
FUND, *et al.*,

Plaintiffs,

v.

AMERICAN REALTY CAPITAL
PROPERTIES, INC., *et al.*,

Defendants.

PIMCO FUNDS: PIMCO DIVERSIFIED
INCOME FUND, *et al.*,

Plaintiffs,

v.

Civil Action No.: 1:15-cv-08464-AKH

AMERICAN REALTY CAPITAL
PROPERTIES, INC., *et al.*,

Defendants.

CLEARLINE CAPITAL PARTNERS LP, *et al.*,

Plaintiffs,

v.

Civil Action No.: 1:15-cv-08467-AKH

AMERICAN REALTY CAPITAL
PROPERTIES, INC., *et al.*,

Defendants.

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PENTWATER EQUITY OPPORTUNITIES
MASTER FUND LTD., *et al.*,

Plaintiffs,

v.

Civil Action No.: 1:15-cv-08510-AKH

AMERICAN REALTY CAPITAL
PROPERTIES, INC., *et al.*,

Defendants.

ETON PARK FUND, L.P. and ETON PARK
MASTER FUND, LTD.,

Plaintiffs,

v.

Civil Action No.: 1:16-cv-09393-AKH

AMERICAN REALTY CAPITAL
PROPERTIES, INC., *et al.*,

Defendants.

RELIANCE STANDARD LIFE INSURANCE
COMPANY, *et al.*,

Plaintiffs,

v.

Civil Action No.: 1:17-cv-02796-AKH

AMERICAN REALTY CAPITAL
PROPERTIES, INC., *et al.*,

Defendants.

(caption continued on following page)

JET CAPITAL MASTER FUND, L.P., *et al.*,

Plaintiffs,

v.

AMERICAN REALTY CAPITAL
PROPERTIES, INC., *et al.*,

Defendants.

Civil Action No.: 1:15-cv-00307-AKH

ARCHER CAPITAL MASTER FUND, L.P.,
et al.,

Plaintiffs,

v.

Civil Action No.: 1:16-cv-05471-AKH

AMERICAN REALTY CAPITAL
PROPERTIES, INC., *et al.*,

Defendants.

ATLAS MASTER FUND, LTD., *et al.*,

Plaintiffs,

v.

Civil Action No.: 1:16-cv-05475-AKH

AMERICAN REALTY CAPITAL
PROPERTIES, INC., *et al.*,

Defendants.

FIR TREE CAPITAL OPPORTUNITY
MASTER FUND, L.P., *et al.*,

Plaintiffs,

v.

Civil Action No.: 1:17-cv-04975-AKH

AMERICAN REALTY CAPITAL
PROPERTIES, INC., *et al.*,

Defendants.

Pursuant to Rule 56.1 of the Local Civil Rules of the United States District Courts for the Southern and Eastern Districts of New York, the Direct Action Plaintiffs (“Plaintiffs”) hereby submit the following material facts as to which Plaintiffs contend there is no genuine issue to be tried in this matter. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Memorandum of Law in Support of Plaintiffs’ Motion for Partial Summary Judgment Against Defendant Brian S. Block, dated March 28, 2018, and filed herewith.

UNDISPUTED MATERIAL FACTS

1. On September 7, 2016, the United States Attorney for the Southern District of New York filed an Indictment against Brian Block in this District, which asserted six counts against Block: (1) securities fraud; (2) false statements in filings with the SEC regarding ARCP’s 2014 Second Quarter 10-Q; (3) false statements in filings with the SEC regarding ARCP’s 2014 Second Quarter 8-K; (4) false certification of disclosure filed with the SEC; (5) false certifications filed with the SEC (18 U.S.C. § 1350); and (6) conspiracy to commit securities fraud, to make false filings with the SEC, and to falsify books and records. A true and correct copy of the Indictment is attached to the Declaration of Jonathan D. Uslaner in Support of the Direct Action Plaintiffs’ Motion for Partial Summary Judgment Against Brian S. Block (“Uslaner Decl.”) as Exhibit 1.

2. On June 30, 2017, the jury delivered its verdict, finding Block guilty of all six counts, including securities fraud. True and correct copies of excerpts of the June 30, 2017 trial transcript and the jury’s verdict form are attached to the Uslaner Decl. as Exs. 4 and 5, respectively.

3. Block’s criminal trial lasted approximately three weeks. Uslaner Decl., Ex. 4.

4. During his trial, Block was represented by four attorneys from the international law firm of Steptoe & Johnson, LLP. Uslaner Decl., Ex. 4.

5. Twelve fact witnesses testified during his trial, including Defendant Lisa McAlister and Ryan Steel. True and correct copies of excerpts of the trial testimony of Defendant Lisa McAlister and Ryan Steel, are attached to the Uslaner Decl. as Exs. 2 and 3, respectively.

6. On October 24, 2017, Judge Oetken denied Block's motion for judgment of acquittal under Federal Rule of Criminal Procedure 29. A true and correct copy of the October 24, 2017 Order is attached to the Uslaner Decl. as Ex. 8.

7. On November 8, 2017, Judge Oetken sentenced Block to eighteen months in federal prison and fined Block \$100,000. A true and correct copy of the November 8, 2017 hearing transcript is attached to the Uslaner Decl. as Ex. 6.

8. On November 9, 2017, Judge Oetken entered judgment against Block. A true and correct copy of the November 9, 2017 Judgment is attached to the Uslaner Decl. as Ex. 7.

9. On December 22, 2017, Judge Oetken denied Block's motion for bail pending appeal. A true and correct copy of the December 22, 2017 Order is attached to the Uslaner Decl. as Ex. 9.

DATED: March 28, 2018

Respectfully submitted,

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